

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-56836; File No. SR-Phlx-2007-55)

November 21, 2007

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Elimination of the Short Sale Price Test

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on July 31, 2007, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Phlx. Phlx has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Section 19(b)(1) of the Act<sup>4</sup> and Rule 19b-4 thereunder,<sup>5</sup> proposes to amend Phlx Rules 185, 455, 785 and 1072 to reflect the elimination of the

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 17 CFR 240.19b-4(f)(6).

<sup>4</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 17 CFR 240.19b-4.

short sale price test, including any tick or bid test of any self-regulatory organization (“Price Test”) and the elimination of the “short exempt” marking requirement.<sup>6</sup>

The text of the proposed rule change is available at the Exchange, on the Exchange’s web site at <http://www.Phlx.com>, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to conform Phlx Rules to Rules 200(g) and 201(b) of Regulation SHO.<sup>7</sup> On June 28, 2007, the SEC approved final rules deleting the price test of Rule 10a-1<sup>8</sup> and amending Regulation SHO to prohibit any SRO from having a price test in place. In addition, Rule 200(g) of Regulation SHO was modified to remove the requirement upon broker-dealers to mark sell orders as “short exempt.”

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<sup>6</sup> See Securities Exchange Act Release No. 55970 (June 28, 2007).

<sup>7</sup> 17 CFR 242.200(g) and 17 CFR 242.201(b).

<sup>8</sup> 17 CFR 240.10a-1.

Phlx Rules 185, 455, 785 and 1072 contain language regarding the Price Test and the “short exempt” marking requirement. Phlx Rule 185 contains language regarding the entry, display and execution of sell short orders on XLE, Phlx’s electronic equity trading system, that are subject to the Price Test. With the elimination of the Price Test, sell short orders will not be handled any differently by XLE and the amendments to this rule will so reflect. Phlx Rule 455 stated that XLE will not execute a sell order unless effected in compliance with Rule 10a-1. Rule 10a-1 contained the Price Test and is being eliminated. The amendments to Phlx Rule 455 will reflect this.

Phlx Rule 785 requires member organizations to make an automated submission of trading data, including marking orders as short exempt, where appropriate. Phlx Rule 785 will be amended to reflect the elimination of the “short exempt” marking requirement. Phlx Rule 1072 outlines the requirements on options specialists and Registered Options Traders (“ROT”) regarding their use of an exception to the NASD (n/k/a Financial Industry Regulatory Authority, Inc.) bid test (which was a type of Price Test) available to hedging options transactions. The elimination of the Price Test extended to the NASD bid test and therefore options specialist and ROTs will not need the exemption outlined in Phlx Rule 1072. Phlx Rule 1072 will be deleted.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to

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<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).







